

ESTTA Tracking number: **ESTTA418600**

Filing date: **07/08/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92052197
Party	Plaintiff Terri Yenko Gould, Executor
Correspondence Address	GEORGE E BULLWINKEL 425 WOODSIDE AVE HINSDALE, IL 60521 UNITED STATES geb@bullwinkel.com
Submission	Other Motions/Papers
Filer's Name	George E. Bullwinkel
Filer's e-mail	geb@bullwinkel.com
Signature	/George E. Bullwinkel/
Date	07/08/2011
Attachments	EMERG MOTION for Telephone deps.pdf (3 pages)(57687 bytes) NOTICE of Deps.pdf (3 pages)(42539 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Terri Yenke Gould, Executor,)	
)	
Petitioner)	
)	
v.)	Cancellation 92052197
)	
SuperCar Collectibles, Limited)	
)	
Registrant)	
)	

**PETITIONER'S EMERGENCY MOTION TO ALLOW COUNSEL TO
PARTICIPATE IN TESTIMONIAL DEPOSITIONS BY TELEPHONE**

The Executor of the Estate of Donald Frank Yenke, Petitioner (Plaintiff) herein, presents the following *emergency motion* for an order permitting the questioning of two of her testimonial witnesses by telephone, with the court reporter being present with the witness at all times.

The Board re-set Plaintiff's testimony period into a narrow window, opening July 12 and closing July 18, 2011. Plaintiff has only four witnesses -the same ones whose signed declarations were filed previously as testimony, but were objected to by the Defendant. They live, respectively, in Encino CA (Terri Yenke Gould), Alton MO (Thomas Clary), and Chicago IL (Lester Quam and the undersigned). A formal notice of the taking of these testimonial depositions was served on opposing counsel, both electronically and by Express Mail, today, July 8, 2011.¹ (A copy is attached as Exhibit 1.)

1. In addition to refusing telephone calls, he now claims not to accept documents by electronic service.

Though a place date, time and court reporter for each deposition has been arranged, Ms. Yenke Gould cannot afford the cost of having the undersigned attend the California and Missouri depositions in person. A conference telephone call would solve that problem. However, yesterday, July 7, 2011, the undersigned tried to telephone opposing counsel about the dates, times and locations, and attendance by telephone, but to no avail.

Having received no response to my telephone call, I confirmed my request by email. Much later, at the end of the day, counsel emailed a reply, refusing to even discuss the matter until a formal notice of deposition was received, and stating that he would under no circumstances consent to my posing questions by telephone to the California and Missouri witnesses, even if the court reporter were personally present with the witness.

In the interest of justice, and of giving both parties a full and fair opportunity to present their cases, The Estate of Donald Frank Yenke (Petitioner-Plaintiff herein) therefore moves for an Order allowing participation of counsel in the testimonial depositions of Plaintiff's witnesses by telephone, provided that the court reporter is physically present with the witness when all questions are asked and answered.

Date: July 8, 2011

Respectfully submitted

/George E. Bullwinkel/

George E. Bullwinkel
Attorney for Petitioner

George E. Bullwinkel
425 Woodside Avenue
Hinsdale, Illinois 60521
Telephone: (630) 418-2273
Email geb@bullwinkel.com
Fax: (630) 214-3210

CERTIFICATE OF SERVICE

George E. Bullwinkel, an attorney of record, hereby certifies that one copy of the foregoing PETITIONER'S EMERGENCY MOTION TO ALLOW COUNSEL TO PARTICIPATE IN TESTIMONIAL DEPOSITIONS BY TELEPHONE was served by Express Mail on July 8, 2011, and also by telefax and electronic mail, to the following:

Robert D. Buyan
Stout, Uxa, Buyan & Mullins, LLP
4 Venture, Suite 300
Irvine, CA 92618

email rbuyan@patlawyers.com

Attorney for Respondent

/George E. Bullwinkel/
George E. Bullwinkel

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Terri Yenko Gould, Executor,)	
)	
Petitioner)	
)	
v.)	Cancellation 92052197
)	
SuperCar Collectibles, Limited)	
)	
Registrant)	
)	

PETITIONER'S NOTICE OF TESTIMONIAL DEPOSITIONS

BY EXPRESS MAIL (also by telefax and email)

TO: Robert D. Buyan
STOUT, UXA, BUYAN & MULLINS, LLP
4 Venture, Suite 300
Irvine, CA 92618-7384

Please take notice that Petitioner herein will take the testimonial depositions of the named witnesses on the dates and times and at the places indicated on the attached Appendix A. You are invited to attend and cross-examine.

A copy of Petitioner's Exhibits 1 - 34, inclusive, pre-marked and to be used at the depositions, is enclosed herewith.

/George E. Bullwinkel/
George E. Bullwinkel
Attorney for Petitioner

Date: July 8, 2011

George E. Bullwinkel
425 Woodside Avenue
Hinsdale, Illinois 60521
Telephone: (630) 418-2273
Email geb@bullwinkel.com
Fax: (630) 214-3210

APPENDIX A

PETITIONER'S TESTIMONIAL DEPOSITIONS

TERRI YENKO GOULD (questions by telephone)

Time: July 13, 2011, 10:00 a.m. local time

Place: Janet Epstein & Assoc. Inc.
21243 Ventura Blvd. #230
Woodland Hills, CA 91364
Phone 877-710-9911

THOMAS CLARY (questions by telephone)

Time: July 15, 2011, 4:00 p.m. local time

Place: Clary Funeral Home
102 Vine St.
Alton, MO 65606
Phone 417-778-7221

LESTER QUAM

Time: July 18, 2011, 10 a.m. local time

Place: 3240 West Irving Park Road
Chicago, IL 60618
Phone 773-463-7400

GEORGE E. BULLWINKEL

Time: July 18, 2011, 11:00 a.m. local time

Place: 3240 West Irving Park Road
Chicago, IL 60618
Phone 773-463-7400

CERTIFICATE OF SERVICE

George E. Bullwinkel, an attorney of record, hereby certifies that one copy of the foregoing PETITIONER'S NOTICE OF TESTIMONIAL DEPOSITIONS was served on July 8, 2011 by electronic mail, by telefax, and by overnight mail (Express Mail), to the following:

Robert D. Buyan
STOUT, UXA, BUYAN & MULLINS, LLP
4 Venture, Suite 300
Irvine, CA 92618-7384

Telephone: (949)450-1750
Facsimile: (949)450-1764

Attorney for Respondent

/George E. Bullwinkel/
George E. Bullwinkel